

**A Review Antelope Complex Gather Activity Including:  
A Mare that Fell on January 27, 2011, and the  
Performance of the Contractor, Sun J Livestock**

**Prepared by: BLM Review Team**

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**Review Purpose and Scope**

This review of the actions taken by the gather contractor Sun J Livestock, Inc. (Sun J Livestock) at the Bureau of Land Management (BLM) Antelope Complex Gather has a dual purpose. First, the review examines the incident with the fallen mare captured on video on January 27, 2011, to determine the causes of the incident and if it was the result of any unacceptable gather practices, based on existing BLM policy and procedures. Second, the review assesses the overall performance of the Sun J Livestock on this and other recent gathers to determine if animals are being gathered and handled in accordance with existing BLM policy and procedures and with care, compassion, and concern for the animal's well-being. Sun J Livestock has been under contract by the BLM to gather and remove wild horses since October 2010. Under this contract, they have gathered horses from 8 Herd Management Areas (4 individual HMAs and one complex), including the capture of 1,623 animals during this time.

This review is in response to recent criticism that the practices used by Sun J Livestock are not acceptable and create unnecessary stress and risk to wild horses being gathered. The BLM is committed to the humane and responsible treatment of wild horses and burros. The BLM endorsed this review to evaluate the events of January 27, the performance of Sun J Livestock, and to further address public concerns.

Items reviewed by the Team included:

- Videos taken on January 27, 2011, of a mare that fell, got up, and was subsequently pursued by the contractor's helicopter but ran off uncaptured
- A general evaluation of capture techniques, handling methods, and facilities used by Sun J Livestock since October 1, 2010.

Still photographs taken on January 31 of the helicopter pursuing a horse or horses during the gather have also raised questions and been a point of discussion; however, BLM was unable to acquire these images from the owner to allow for review and evaluation.

**Methods**

The review team was established by Dean Bolstad, Deputy Division Chief, BLM Wild Horse and Burro Program (WHB) and Amy Lueders, Acting State Director, BLM Nevada. The team consisted of Dr. Albert J. Kane, Senior Staff Veterinarian, Animal and Plant Health Inspection Service (APHIS), APHIS/BLM WHB Partnership; Gus Warr, Utah BLM, State WHB Program Specialist; Lili Thomas, WHB National Program Office, Contracting Officer Representative; and Mary D'Aversa, Nevada BLM, Schell Field Office, Field Office Manager.

The team conducted either in-person or phone interviews with members of the public and media who were present at the Antelope Complex Gather on January 27, 2011. Eight of the nine

individuals from the public in attendance that day were interviewed. One attendee was not available.

Employees assigned to the Antelope Complex Gather who were interviewed included the BLM Contracting Officer's Technical Representative (COTR), a BLM-Nevada WHB Program Specialist, and two of the on-site APHIS veterinarians who had been working on the gather. Contractor employees who were interviewed included the owners of Sun J Livestock, the pilot, and two wranglers.

To gain a broader perspective of Sun J Livestock gather practices, three BLM COTRs who have used Sun J Livestock on horse gathers since October 1, 2010, were also interviewed.

The review team considered feedback from the interviews and evaluated available video footage associated with the circumstance where the mare fell while being driven by the helicopter on January 27, 2011.

### **Assessment and Discussion: Mare that Fell on January 27, 2011**

This portion of the review considers the events of January 27 when a horse fell at the entrance to the wings of a trap used that day during the Antelope Complex gather operation. Snow cover that day was limited to low lying areas, north facing slopes, and areas where it had accumulated or drifted due to trees, brush, or washes. Snow cover was minimal, perhaps 10 percent of the area. The snow that was present was described as crusted over. The weather was partly cloudy. Temperature at the start of gather operations was 21 degrees, with a daytime high forecast to be in the 30s and 40s.

Review of the various segments of video footage and accounts from the persons present who could see the horses coming into the wings were in agreement in many ways. All agreed it was a mare. The video clearly shows her to be bay in color and that there were 9 horses in this group of horses being brought to the trap. The video clearly shows the horses cantering and trotting, at one point of time, slowing to a walk and almost to a standstill as they were brought toward the trap. At no time are the horses seen to be in a stampede. Video shows the helicopter to be about 80 lengths (horse length equals 8 feet) behind the horses as they were brought toward the wings, and at the time the mare fell the helicopter was about 28 lengths behind the horses. At no time during the approach to the wings was the pilot seen flying too low, in an unsafe manner, or so as to apply too much pressure to the horses.

There were several divergent opinions as to what caused the mare to fall or why she fell. The videos clearly show and all seemed in agreement that she fell in a small snow drift (about 12 inches deep) that had accumulated in a line of brush. The other horses ran through the drift, and there was some jostling for position evident on the video as other horses cut in front of the mare. The video shows she tripped or stumbled and fell forward landing on and lying upright on her chest. After she landed portions of her back legs below the hocks were still visible above the snow while her front legs were folded under her in the snow. Most described that the mare "tripped," "stumbled," "slipped," or "lost her footing." One witness interviewed said the mare "collapsed" as from exhaustion.

After the mare fell, the other horses continued toward the trap while the mare attempted unsuccessfully to get to her feet 4 times during about a 10-second period of time. During this time, the helicopter hovered above and behind the mare, then proceeded to fly around the mare and push the other horses into the trap. The contractor radioed to his ground crew to go to the mare to help her get up if possible. He reported that his concerns at that time were that the mare may be seriously injured and that the horses headed into the trap would turn and run over the mare if they came back through the wings away from the trap. Two of the crew approached the mare on foot with flags in hand and the mare got to her feet and proceeded to run off. After the mare got up she was not wobbly or disoriented. She was alert, responsive, and moved off in a very determined manner.

While each video viewed to date has some interruption or segment of time removed by editing (reportedly to remove shaky video or time spent panning back and forth), it seems clear from eyewitness accounts and the video that the mare was lying down for about "1 minute or less." The helicopter then made two attempts to herd the mare into the trap. On both occasions, as she canters and trots toward the trap, she stops, turns, and canters or trots back away from the trap, evading the helicopter. After the second attempt to redirect the mare into the trap, the helicopter pulls back, goes around the mare and flies off, allowing her to leave the area at her own pace. Video shows the mare moving between the observer location and the trap from left to right in the videos, mostly at a trot but also walking and at one point stopping for a few seconds. She then proceeds up and across a small hill, across the field of view from left to right, and out of the video to the right. Eyewitnesses described seeing the mare move at her own pace (at a walk, trot, and canter) toward the north, northwest over the next hour or so covering 3-4 miles in the process before she completely disappeared from sight.

It is apparent from the video and all eyewitness accounts agree the mare showed no signs of injury or lameness at any time. Many of the observers described the mare as old, but most could not explain on what that assessment was based. Some thought she looked "sway backed" and that the appearance of her top-line, hips, or withers made her look old. Most of the observers agreed the mare looked very thin. Eyewitness accounts and examination of the video suggest she had a body condition of between 2.5 and 3 on the 0-9 Henneke scale. One witness filming the incident described that the mare "looked fine," perhaps "confused" at where her herd mates had gone, but added that she "didn't look scared" as she trotted away. Other witnesses felt the mare was exhausted and distressed from the activity of the gather and the separation from her family. One witness noted that when the mare trotted off, she seemed tired but alert and with her head up. One witness didn't see why there was a concern and felt the mare should simply have been captured by roping her and returning her to the trap. The video clearly shows the mare's breath in the cold air. Some observers didn't think she looked sweaty while others described her as wringing wet with sweat and steam rolling off her body. None of the observers thought she was having difficulty breathing. None of the observers described her as lame, wobbly, disoriented, dull, or depressed.

The pilot reported that, because of the mare's condition, he had been looking for an opportunity to drop her from the group as he was bringing the horses to the trap. He was concerned she might not make it to the trap safely, and this was discussed with the contractor and the COTR. However, at no time did she fall back away from the group sufficiently so that she could be

separated off and she kept pace with the group all the way to the wings. The contractor had directed his crew to break trails through a small snow drift inside the wings with their saddle horses. This was done in an effort to direct the horses into the trap and create an easier path through the snow.

The APHIS veterinarians working on the gather split their time between the trap site and the temporary holding corrals. They did not see the mare fall. They did examine the horses captured and watched the horses load and/or unload at each opportunity. They noted the horses were scattered and seemed difficult to bring together for capture. They also commented that the appearance and condition of the horses and actions of the contractors were consistent with other gathers they have observed and noted no concerns with the animals, their well-being, or the actions of the contractors.

Each person interviewed described the groups of horses coming into this trap as relatively small, with 8 or 10 at a time being the largest groups and 3, 4, or 5 being most common. Some felt the helicopter was flying too low, less than a few feet from the horses and even described the helicopter skids getting tangled in the jute fencing or a cable or "line" of some sort. These same observers also remarked that they could not see the trap from where they were positioned or were too far away from the trap to see it clearly. There were no lines or cables used in the construction of this trap. Despite the contention that the helicopter was flying dangerously low, every person interviewed by the Team was asked if he or she ever felt in danger at any time during the day. Without exception, all answered that they never felt in danger from the helicopter or for any other reason during the day. Interviews with the pilot and crew at the trap confirmed that the helicopter was never less than 10 feet from the jute. No one at the trap itself reported the helicopter as dangerously close to the jute wings or the horses at any time. Interviews with the witnesses and examination of the video suggest a good determination of distance between the helicopter and horses or objects cannot always be made by a distant observer.

It is the opinion of this review team that there were several factors that caused the mare to stumble and fall. While it is impossible to estimate the mare's age simply from her appearance at a distance, it is clear that she was very thin and not in good condition. She may well have been an older horse or may have had a dental abnormality or some other health condition that, combined with limited forage availability, caused her to be very thin. The principal and necessary cause of the mare's fall was stumbling and losing her footing in the snow drift. Fatigue likely played a role as she lost her footing and in her failed attempts to get up immediately after falling. She was likely to be at least somewhat tired as one might expect of a horse arriving at a trap during a gather. It seems clear she was not in a robust condition, and these factors, along with jostling with the other horses, contributed to causing her fall. That she was able to get up just 60 seconds or so after falling, and that she was still able to avoid capture and trot and canter off with no signs of lameness or being unsteady on her feet, clearly suggests she was not exhausted, not driven to exhaustion, and had not been driven to the point of collapse. That she proceeded to move off at her own pace, including walking, trotting, and cantering a distance of a few miles in the hour following the event, supports this conclusion. Given that the mare was very thin and forage is limited in the area, it is quite possible she will not survive the balance of the winter even if this gather has reduced grazing pressures within the HMA. Since

she did not appear to be seriously injured after she got up and she was close to the trap and almost within the wings, the attempts to capture her after she got up were reasonable and consistent with existing contract guidance regarding gather operations.

### Section Summary

There is no indication that the helicopter or the crew was acting in a cruel or inhumane manner. There is no indication the helicopter was flying dangerously low, too close to the horses, or in an unsafe manner. Over 40 horses were safely captured at this same trap with no other incidents, with no serious injuries, and with no other horses allegedly being exhausted or collapsing. One mare stumbled, slipped, and fell. This was an unfortunate accident, but incidents like this should not be unexpected during a wild horse gather operation. Fortunately, this mare was able to get up and run off unharmed.

### **Assessment and Discussion: General Evaluation of Capture Techniques, Handling Methods, and Facilities Used by Sun J Livestock Since October 1, 2010.**

#### Experience of the Contractor

The gather contract solicitation requires that all proposals demonstrate a minimum of 1,500 hours of flying experience in similar projects for the proposed primary and secondary helicopter pilots. To be considered for a contract award, the contractor needs overall experience of humanely capturing a minimum of 3,000 wild horses and/or burros while using helicopter- drive trapping. The contractor and proposed key personnel needed this overall experience in similar projects during the time from 2007 to the present. Sun J Livestock met all of the above criteria and qualified to have a contract awarded to it. Overall, the contractor has gathered over 40,000 wild horses. . In addition, the staff has had considerable experience working with wild horses and burros prior to the beginning of this contract.

#### Aerial Operations

Due to the variability and complexity of individual wild horse gathers, each gather presents its own unique circumstances and challenges. The COTR and the contractor frequently discuss different ways to humanely and effectively bring wild horses into a trap in a manner that will reduce unnecessary stress to the horses.

Several COTRs noted that Sun J Livestock has done very well given that they have performed several difficult gathers. Catch, treat, and release (CTR) fertility control gathers, such as the Callahan Complex and Pine Nut Mountain, are difficult because of the need to trap as close to 100 percent of the horses as possible. Horses from the Antelope Complex HMAs have historically exhibited a wider and more erratic flight response when compared to other wild horses. This influences the ease with which a helicopter can successfully move and capture animals. In addition, there have been recent reports of the Antelope horses being harassed by two different aircraft, and the matter remains under investigation. It is the general assessment of the COTRs, the contractor, the pilot, and an on-site APHIS veterinarian that the Antelope horses have been unusually difficult to handle and flighty in general.

The BLM has received complaints that the Sun J Livestock pilot is unqualified and/or not sufficiently experienced to safely and humanely handle horses. The comments of observers

present on January 27, 2011, were divergent when asked if the pilot was flying too low or too aggressively. Some observers stated that the pilot was unqualified based on how horses were handled with regard to the timing of pressure-and-release, and the speed and height of the helicopter, and the distances that the horses were traveling. Others felt that the helicopter worked the horses slowly, kept a safe distance from them, and commented positively on the good pressure-and-release work of the helicopter as it herded horses toward the trap. COTRs who worked with Sun J Livestock on previous gathers did not have complaints regarding how horses were being handled by the helicopter. The COTR for the Antelope Complex Gather shared that there were instances where horses may have been worked longer or harder than might be ideal, and that these were addressed. There were also instances where horses were lost because of too much caution and not pushing the horses enough. This suggests that a more distant approach may not be consistently effective for gathering these particular horses. The COTR associated these circumstances with the general behavior of the Antelope horses and the behavioral variation between bands.

Both the contractor and the BLM COTRs noted that the helicopter stays back most of the time and then works closer as the horses approach the wings of the trap. The contractor has been flying with the pilot to assess the best way to work the horses into the trap in good condition. If an adult horse is in poor shape or seems to be having difficulty keeping up with a group, particularly a stallion or dry mare, the contractor reported that he will let the horse drop back if it is possible and not bring the horse into the trap.

The COTRs interviewed did not regard the pursuit of individual horses to be excessive. The helicopter attempted to herd the mare in the above discussion into the trap twice after she fell. Given her proximity to the trap, this seemed reasonable to the COTRs. At the time that the mare broke away, she continued to move a distance of a few miles over the next hour, which suggests that she was not overdriven.

#### Ground-based Operations:

Interviews of January 27, 2011, observers expressed differing viewpoints and opinions regarding ground operations. Some observers commented that the use of helicopters to gather wild horses in general was not acceptable to them. Some shared that trailers were loaded too heavily and too soon after the horses are gathered; and that the ground crew appeared to be excessive in spooking and/or hitting the horses with their flags (plastic bag on a stick). Others observing the same actions noted that the horses were allowed to settle down before loading, and others even commented that the horses were made to wait around too long before loading. Several observers commented that the horses did not appear to be distressed or under any undue stress, and that the ground crew was calm and compassionate when working and loading the horses. These observers reported the ground crew did not hit the horses with their flags. Handling was described as just like the handling of other fractious or untamed horses or livestock they had seen in the past.

Typically horses are kept at trap sites a minimal amount of time to decrease fighting and reduce the risk of injury and stress. Sorting by age and sex reduces fighting and the risk of injury associated with fighting. Horses are moved to the temporary holding corrals to be sorted by sex

and age, to pair up mares with foals, to examine the animals for injuries, and to be fed and watered.

Concern was expressed that the trap sites are not conducive to trapping horses because of their small size and short wings. BLM COTRs reported that they are in constant communication with the contractor regarding trap size, trap location, length of wings, configuration of temporary holding pens, number of animals shipped on stock trailers and semis, the handling of horses at the trap site and temporary holding corrals, and assessment of the condition of horses upon gathering.

Trap size is dependent on the approximate group sizes one expects to encounter in the area and the number of animals that will be gathered at that location. Traps need to be small enough to crowd horses a bit to prevent them from circling en masse in the pens and minimize the likelihood they will get up enough speed to run into a panel and get hurt. Panels are not firmly fixed to the ground to allow the trap to flex somewhat. This also helps prevent injury should a horse or group of horses push into or hit the panels. The lengths of the wings are dependent on the trap location, natural barriers that facilitate trapping, and the expected level of difficulty in catching the animals. Longer wings for horses that have been captured before and released are a detriment to the operation, as these horses will see the wings earlier and be more reluctant to enter the trap. This can result in more pressure needed to capture the animals and increased stress.

The contractor company reported that it had made changes to temporary holding pens to minimize the chance of injuries. Sun-J added visual barriers inside the working area to help calm the horses and reduce stress and the risk of injury. The contractor also added padding to the bars across the top of gate frames to reduce the risk of injury if horses rear up and hit their heads. To date, the Antelope gather has had one gather-related death (a horse that was seriously injured on a trailer while in transit from the capture site to the temporary holding corrals) while capturing over 400 hundred horses – a mortality rate that is less than one quarter of one percent. Overall, the contractor has gathered 1,623 horses since October 1, 2010, with a gather-related death loss of 12 animals or 0.7%. This is consistent with other BLM gather operations, where gather-related death losses average less than one percent.

#### Sun J Livestock and BLM COTR Communication and Responsiveness

Each of the COTRs interviewed noted that Sun J Livestock has been very receptive to their requests, suggestions, and comments regarding ways to better ensure safe and compassionate handling of wild horses. Steps have been taken based on feedback from BLM COTRs to minimize stress and the risk of injury or death of wild horses during gather operations. One COTR shared that the contractor is sensitive to the concerns of the public regarding horse handling and other observations, and continually looks for ways to improve. Several improvements have been implemented as noted by the review team. Very few injuries and/or deaths have been attributed to gather operations being conducted by this contractor.

#### **Overall Summary**

The findings of the Review Team are as follows:

1. The mare that fell on January 27, 2011, stumbled or tripped and fell when she lost her footing in a small snow drift. She was not over-driven and did not collapse from exhaustion. Following the failed attempts to capture her, she ran off unharmed.
2. The practices employed by Sun J Livestock are consistent with existing BLM policy and procedures and are not cruel or inhumane. At no time have horses being gathered been made to stampede. At no time have horses being gathered been driven to a point of exhaustion or collapse.
3. Video footage of the helicopter in close proximity to the horses near the trap is consistent with the techniques needed to effectively capture wild horses using helicopter-driven trapping.
4. Allegations that the helicopter is dangerously close to the horses or the trap are inaccurate or exaggerated.
5. The COTR and the contractor are in constant communication regarding both air and ground operations. The BLM COTRs have found Sun J Livestock receptive to implementing changes and adjustments that are in the best interest of BLM's objectives, including the humane treatment and care of wild horses during gather operations.